REMARKS

Claims 1-24 are pending in the present application.

Claims 1-4, 6-11 and 18-23 were rejected.

Claims 5, 12, 17 and 24 were objected to.

No claims have been amended.

Claims 1-24 remain in the application.

The Applicants request reconsideration of Claims 1-24 in view of the following arguments.

In Section 2 of the August 12, 2004 Office Action, the Examiner rejected Claims 1-3, 6-8, 10, 11, 13-15, 18-20, 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. US 2001/0049263 to *Zhang* (hereafter, simply *"Zhang"*) in view of U.S. Patent No. 6,757,521 to *Ying* (hereafter, simply *"Ying"*).. In Section 3 of the Office Action, the Examiner rejected Claims 4, 9, 16 and 21 under 35 U.S.C. §103(a) as being unpatentable over *Zhang* and *Ying* in view of United States Patent No. 6,333,973 to *Smith et al.* (hereafter, simply *"Smith"*).

The Applicant respectfully disagrees with the rejection of Claims 1-24 and directs the Examiner's attention to Claim 1, which contains the unique and non-obvious limitations emphasized below:

> 1.   (Original) For use in a wireless network comprising a plurality of base stations, each of said base stations capable of communicating with a plurality of mobile stations, a mobile station diagnostic testing system capable of testing the operation of a first one of said plurality of mobile stations comprising:
>   a database capable of storing a mobile station diagnostic testing file comprising <u>a mobile station diagnostic testing program in interpreted byte-code format</u>; and

a diagnostics controller coupled to said database capable of receiving a notification indicating that a fault has occurred in said first mobile station and further capable, in response to receipt of said notification, of retrieving said mobile station diagnostic testing file from said database and transmitting said mobile station diagnostic testing file to said first mobile station, <u>wherein receipt of said mobile station diagnostic testing file causes said mobile station to execute said mobile station diagnostic testing program</u> in said mobile station diagnostic testing file. (emphasis added)

The Applicant respectfully asserts that the above-emphasized limitations are not disclosed, suggested, or even hinted at in the *Zhang* reference, the *Ying* reference or the *Smith* reference, or in any combination of the *Zhang*, *Ying* and *Smith* references.

In rejecting Claim 1, the Examiner acknowledges that the *Zhang* reference does not teach a mobile station diagnostic testing file comprising a mobile station diagnostic testing program in interpreted byte-code format, wherein receipt of the testing file causes a mobile station to execute the testing program. The Applicant agrees with this assessment of the teaching of the *Zhang* reference. The Examiner further asserts, however, that the *Ying* reference teaches such a file and program, executed upon receipt at a mobile station, at column 19, line 37, through column 20, line 22. The Applicant respectfully disagrees with this assertion.

The cited passage states, in relevant part:

The personal digital assistant 420 may also provide the ability for an operator to force individual components in the control network system to a desired output state. By entering various inputs, the operator may cause test instructions to be conveyed wirelessly from the personal digital assistant 420 to the control network 218, whereupon the test instructions are relayed to the appropriate individual component(s) of the control network system. In the absence of any fault of component failure, the component should change states to the desired output state in response to receiving the proper instruction.

The operation of the *Ying* system is further clarified at column 25, lines 49-55, which state:

> In response to selection of the check boxes 518 for the desired output components 516 to be tested, the application software of the personal digital assistant 420 issues commands to the control network 218 (over the wireless communication link, via the wireless intermediary device 205) to activate all necessary input components (e.g., switches) to force the selected output function.

The two passages make it clear that the "test instructions" of the *Ying* reference are commands to individual components of a control network system causing them to change to a desired output state. Thus, the Applicant respectfully asserts that the *Ying* reference does not, in fact, teach a mobile station diagnostic testing program in interpreted byte-code format, which is executed upon receipt at a mobile station, as recited in Claim 1. Instead, the *Ying* reference teaches the transmission of "test instructions" which cause programs already resident in the system under test to alter the output state of the components of the system.

As such, the unique and non-obvious limitations emphasized in Claim 1 above are nowhere disclosed in the *Zhang* reference, the *Ying* reference, or in a combination of the *Zhang* reference and the *Ying* reference. Furthermore, the *Smith* reference does nothing to overcome the shortcomings of the *Zhang* and *Ying* references. The *Smith* reference was introduced to disclose short messaging service (SMS) messages, a graphical user interface (GUI) program, and other dependent claim limitations. But the *Smith* reference is silent with respect to the unique and non-obvious limitations emphasized in Claim 1 above.

In sum, independent Claim 1 contains patentable subject matter over the *Zhang* reference, the *Ying* reference, the *Smith* reference, and the combination of the *Zhang*, *Ying* and *Smith* references. Also, dependent Claims 2-5 depend from Claim 1 and contain all of the unique and non-obvious limitations recited in Claim 1. Thus, Claims 2-5 also are patentable over the cited prior art references.

Independent Claims 6, 13 and 18 contain limitations that are analogous to the unique and non-obvious limitations recited in independent Claim 1. This being the case, Claims 6, 13 and 18 are patentable over the *Zhang* reference, the *Ying* reference, the *Smith* reference, and the combination of the *Zhang*, *Ying* and *Smith* references. Furthermore, dependent Claims 7-12, which depend from Claim 6, dependent Claims 14-17, which depend from Claim 13, and dependent Claims 19-24, which depend from Claim 18, contain all of the unique and non-obvious limitations recited in Claims 6, 13 and 18, respectively. Thus, dependent Claims 7-12, 14-17 and 19-24 also are patentable over the cited prior art references.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.
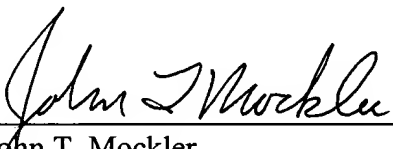
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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